



1368 Research Park Dr  
Beavercreek, Ohio

**BEAVERCREEK BOARD OF ZONING APPEALS**  
**Regular Meeting – October 10, 2018, 6:00 p.m.**  
***Council Chambers***

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. REORGANIZATION
- V. APPROVAL OF MINUTES
  - A. July 11, 2018
- VI. PUBLIC HEARINGS
  - A. V-18-4, Joseph & Mary Hopkins, 2109 Beaver Valley Road
- VII. ADJOURNMENT

BEAVERCREEK BOARD OF ZONING APPEALS  
REGULAR MEETING, July 11, 2018, 6:00 PM

PRESENT: Mr. Duerr, Mr. Kruse, Mr. Morter, Mr. Porter

ABSENT: Mr. Hung

Vice Chairman Kruse called the meeting to order followed by roll call.

Mr. Duerr MOVED to excuse Mr. Hung from the meeting, seconded by Mr. Porter.  
Motion PASSED by majority voice vote.

Mr. Porter MOVED approval of the agenda removing IV. Reorganization, seconded by Mr. Duerr. Motion PASSED by majority voice vote.

Mr. Porter MOVED approval of the February 14, 2018 minutes, seconded by Mr. Morter.  
Motion PASSED by majority voice vote. (Duerr abstained)

**PUBLIC HEARING**

**V-18-2, Stephen Hedlund, 2695 Blue Rock Drive**

Clerk Gillaugh read the notice of public hearing on an application filed by Stephen Hedlund, 2695 Blue Rock Drive, Beavercreek, OH 45434, requesting a variance from Chapter 158.104 (A) of the City of Beavercreek Zoning Code, requesting permission to construct an accessory structure that would be located in the side yard within a R-1A District. The property is located on the east side of Blue Rock Drive, five lots north of the intersection of Greenway Drive and Blue Rock Drive further described as Book 6, Page 14, Parcel 30 on the Greene County Auditor's Property Tax Atlas.

Ms. Pereira summarized the staff report dated July 5, 2018, which stated the applicant is requesting a variance to construct an eight by ten accessory structure within the side yard. She read Chapter 158.104(A) of the City of Beavercreek Zoning Code, and showed the layout of the lot. Ms. Pereira explained the area in the yard where an accessory structure would be permitted to be built, and said the reason the applicant is requesting the variance is because the topography of the lot. She showed several photos of the property, and explained it will not be visible to any of the neighbors because of the row of trees. Staff recommended approval of the case with one condition.

There being no public input, the public hearing was closed.

Mr. Duerr asked if this property was part of a homeowner's association, and if they would have any guidelines from the HOA. Ms. Pereira stated Ferguson Estates is an older subdivision, and she did not believe they have an active homeowner's association. She explained the City does not enforce covenants and restrictions and it would be the HOA that would if they had one. Mr. Duerr explained the adjacent neighbor could in

theory see the shed because the row of trees stop, but if they do not have an opposition then he did not either.

Mr. Porter questioned if the shed was going to be centered next to the house or if it was going to be located next to the back of the house. Ms. Pereira said they are proposing it more in the middle because the applicant is trying to place it in the flattest spot possible on the lot.

Mr. Morter MOVED to V-18-2 with one condition:

1. A Residential Zoning Permit must be approved by the Planning and Zoning Department prior to the construction of the accessory structure.

Motion was seconded by Mr. Duerr, and PASSED by a roll call vote of 4-0. (Hung absent)

**V-18-3, James Lyttle, 1668 N. Central Drive**

Clerk Gillaugh read the notice of public hearing on an application filed by James Lyttle, 1668 N. Central Drive, Beavercreek, OH 45432, requesting a variance from Chapter 158.105(C) of the City of Beavercreek Zoning Code, requesting permission to construct a six-foot high fence that would encroach into the required forty-foot front yard along Highmont Street. The property is located at the southeast corner of the intersection of North Central Drive and Highmont Street further described as Book 2, Page 11, Parcel 97 on the Greene County Auditor's Property Tax Atlas.

James Lyttle explained where he is proposing to located a six-foot fence because he has undue hardship and unique circumstances that are qualifiers for a variance. He explained he wanted a privacy fence because he has had a lot of animals in his yard, and he has had neighbor problems. Mr. Lyttle said he has lived at the property for 22 years, and the fence would be his peace. He stated he has a little dachshund that likes to run around in the yard. Mr. Lyttle explained his property is on a dead-end street, and said he looked in all the regulations and could not find anything that addressed dead-end streets. He stated they are considering his property to have two front yards and that would be the case if it was a thoroughfare. Mr. Lyttle said that the proposed fence location will allow him to have his whole back yard, and he also has an RV parked back there.

Mr. Lyttle explained he had a dog attack him from one of his neighbors. He stated the dog would harass him, and it could happen again. Mr. Lyttle said if he had a 42-inch fence they would be able to see each other, and he didn't want anyone to see him. He showed several photos he had taken, and discussed several of the issues he has or had with the neighbors. He stated the family that had the dog have moved away, and he was afraid it was going to happen again. Mr. Lyttle felt like he had a hardship and had a unique circumstance, and asked that the Board allow him the variance request.

Ms. Pereira summarized the staff report dated July 5, 2018, which stated if the variance request was granted it would allow for a six-foot fence to be constructed in the required front yard. She discussed the location of the property, and read Chapter 158.105(C) of the City of Beavercreek Zoning Code. Ms. Pereira explained the applicant is requesting a zero foot setback along Highmont Street, and she showed where a six-foot fence would be permitted using an aerial photo of the property. She said the main thing that staff looks at when reviewing a variance case is whether or not the applicant can meet the requirements of the Code. Ms. Pereira stated the applicant could still maintain his privacy with a six-foot fence, which would still block the animals and the neighbors. She explained Highmont Street along his property is a public street and ends at the end of his property. She said at one point the plan was to join the two roads together, and was done after this property was built. Staff recommended denial of the case.

In written input, a letter was submitted by the resident who resides at 1660 N. Central Drive stating she was opposed to the variance request. A copy of the letter is attached to the set of minutes.

There being no further public input, the public hearing was closed.

Mr. Porter asked if there was an easement along the street. Ms. Pereira explained there is public right-of-way, which is usually 12 feet in from the pavement. She stated even though this property line shows it is to the middle of the street, there is still a recorded easement over the road which would allow anyone to access that property.

Mr. Duerr referred to the aerial photo showing where a six-foot fence would be permitted (indicated by a red line), and asked if the red line would be acceptable to the owner. Mr. Lyttle said no because it cuts off half of his property, and he would not be comfortable with it. He stated he would probably move if that was the only area he was able to put up a six foot fence.

Mr. Kruse said where the red line was would indeed protect him from the neighbors and potential dogs in the future. Mr. Lyttle stated he couldn't say no, but felt like he would be giving up a lot.

Mr. Morter questioned if the RV would still fit if the fence was constructed where the red line was shown. Mr. Lyttle said it would be right up against the fence, and the RV could not be moved back or it would be parked off the concrete pad.

Mr. Kruse asked if there was a map showing that was in fact a public road. Ms. Pereira said yes. Mr. Kruse questioned if the roads that touch this property are public roads. Ms. Pereira stated yes.

Mr. Morter asked which house the applicant had issues with because of the dog. Mr. Lyttle said which house it was. He stated the issues he had had with the property behind him. Mr. Kruse believed a 42-inch would stop the animal from coming in his yard. Mr. Lyttle agreed. He explained he tried to sell his house a couple years ago, but

because of the condition of the neighbor's house he could not sell his house. Mr. Lyttle thought maybe he should sell and leave because he didn't want to cut his backyard off like that.

Mr. Duerr asked if the applicant could have both fences because he could be within the regulations of the City. Mr. Lyttle said he had not thought about that.

Mr. Lyttle questioned if they had to make a determination tonight, or if someone could take a look at that dead-end street since he did not see any provisions regarding it. Mr. Kruse explained after the Board's discussion the chairman would entertain a motion to the proposed resolution of denial or a proposed resolution for approval. He said if a Board member wanted to table the case that could also be discussed.

Mr. Morter asked which house the lady lived in that submitted the letter. Clerk Gillaugh stated it is the property to the south of him.

Mr. Porter questioned if there was a privacy fence between his property and 1660 N. Central Drive. Mr. Lyttle said no, it is a small section of a fence and he was planning on installing the fence in that area. He explained what he was planning on doing was leaving the wooded area there and put up a barb-wired fence through there so no animals could come through it, so he wouldn't need a six-foot fence there.

Mr. Morter MOVED to deny V-18-3. Motion was seconded by Mr. Duerr, and PASSED by a roll call vote of 4-0. (Hung absent)

### **ADJOURNMENT**

Mr. Porter MOVED adjournment at 6:45 p.m., seconded by Mr. Morter. Motion PASSED by majority voice vote.

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Melissa Gillaugh  
Deputy Clerk

October 5, 2018

**STAFF REPORT  
VARIANCE REQUEST  
CASE: V 18-4**

**I. APPLICANT**

Joseph and Mary Hopkins  
2109 Beaver Valley Rd.  
Beavercreek OH 45434

**II. NATURE OF REQUEST**

The applicant is requesting a variance from §158.104(D) of the City of Beavercreek Zoning Code in order to allow for the construction of an accessory structure that would exceed the maximum height of 16 feet within an A-1, Agricultural District.



**III. FINDINGS**

1. The property under discussion is located at 2109 Beaver Valley Road, six lots south of the Kemp Road intersection.
2. §158.104 (D) of the City of Beavercreek Zoning Code limits the height of accessory structures in residential and commercial zoning districts to 16 feet.
3. The applicant is proposing an accessory structure that would 19.5 feet tall which would require a 3.5 foot variance.
4. The zoning code requires that agricultural lots that are non-conforming and are utilized residentially, as is the case here, must adhere to the accessory structure requirements of residential districts.

**IV. DISCUSSION**

The property is zoned agriculturally which normally does not have restrictions on the size or height of barns. However, because it is only a two acre parcel it is considered non-conforming, as agricultural properties must be at least five acres in size. The applicant is proposing to construct the 1200 square foot barn over 300 feet from the road and as shown in the attached photos will be positioned behind the home and will not project above the roofline. The significant distance from the road as well as the location behind the house will not create a negative impact for surrounding properties, and will essentially diminish the actual height of the structure, therefore Staff finds that the variance request from §158.104(D) meets the requirements for approval per §158.172 (H)(5)(a) of the City of Beavercreek Zoning Code.

**V. RECOMMENDATION:**

Staff recommends that the Board of Zoning Appeals find that:

1. The reasons set forth in the application are valid and do justify the granting of the requested variance, and
2. The eight items in §158.172 (H)(5)(a) have been fully satisfied.

Staff further recommends that the Board of Zoning Appeals adopt the attached resolution approving a variance from §158.104(D) with the following conditions:

1. A Residential Zoning Permit must be approved by the Planning and Zoning Department prior to the construction of the accessory structure.

**RESOLUTION  
BOARD OF ZONING APPEALS  
CASE NO. V 18-4**

WHEREAS, Joseph and Mary Hopkins have made application for a variance from the strict application of the requirements of the City of Beavercreek Zoning Code for the property located at 2019 Beaver Valley Road; and

WHEREAS, the applicant is requesting permission to allow a 19.5 foot tall accessory structure; and

WHEREAS, a public hearing was held on October 10, 2018 at which time all persons were given opportunity to comment on the application; and

WHEREAS, the Board of Zoning Appeals finds that the reasons set forth in the application are valid and justify the granting of the variance; and

WHEREAS, the Board of Zoning Appeals finds that subparagraphs 1 through 8 of §158.172 (H)(5)(a) have been fully satisfied.

NOW therefore the Board of Zoning Appeals orders that:

A variance from §158.104 (D) of the City of Beavercreek Zoning Code to allow construction of said accessory structure, that would exceed the 16 foot maximum height by 3.5 feet be approved.

ACTION BY BOARD OF ZONING APPEALS

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Chairman







To: Beaver Creek City Board of Zoning Appeals

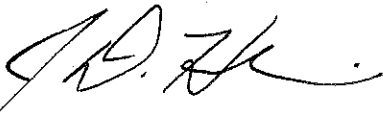
Subject: Request for Dimensional Variance for a Pole Barn at 2019 Beaver Valley Rd

Sirs, Ma'ams,

We request a variance to the 16' height limitation set for Accessory Buildings.

Rationale for the requested variance: In order for us to utilize our property and meet our needs, we require an internal clear span of 14' over a 30'x40' area (1200 square feet). In order to meet this requirement, with a roof pitch of 4/12 for the snow load required, a height of no less than 19'6" at the peak of the eaves from grade in the front of the building is needed. In the event of denial of this request, there is no reasonable alternative to pursue. Other factors that may be worth considering are: 1) our property is over 2 acres that rises to the house and so the taller barn would not appear any taller than the house from the road, 2) behind the house our property dramatically rises to the property line (as seen in the topographical map included) and we have excavated as much as 10' into the hill in order to accommodate the building which, while not strictly in compliance, would effectively meet the 16' or less tall from the original grade at the rear of the building which we feel would comply with the spirit of the height requirement, 3) With the set back from the road of over 200' and the fact that there is a newly constructed much larger pole barn type structure across the road (Bomber Cross Fit gym) as well as a number of properties in the area that have much larger pole barn structures, we feel it's in keeping with the intent of the requirement, 4) The frontal area of the structure over the 16' height is less than 3.4% of the total area of the building front and so could be considered a very minor variance. Also, I've investigated other municipality height requirements and it's interesting to note that there is no consistently applied requirement and there are a number that I've found that are set at 20' and even 21'.

Thank you for your consideration,



Joseph D. and Mary A. Hopkins, owners

2109 Beaver Valley Rd

Beavercreek, OH 45434

(937)716-3989



# Customized Property Map



**Greene County Legend**

- Interstate Highway
- US Highway
- State Route
- Local Roads
- Schools
- Parks
- Buildings
- Hydrography
- Topography
- Corporation Boundary
- Pinel Boundary
- Pinel Number
- Pinel Lot Number

This map was prepared as a service to the public by the Greene County Engineer in accordance with Section 571.3.09 of the Ohio Revised Code. Greene County assumes no legal responsibility for the information provided on this map. Users noting errors or omissions are encouraged to contact the Greene County GIS Department.

Created On: 8/22/2018

1 inch = 40 feet

0 10 20 Feet

**GIMS**

County Auditor David A. Graham

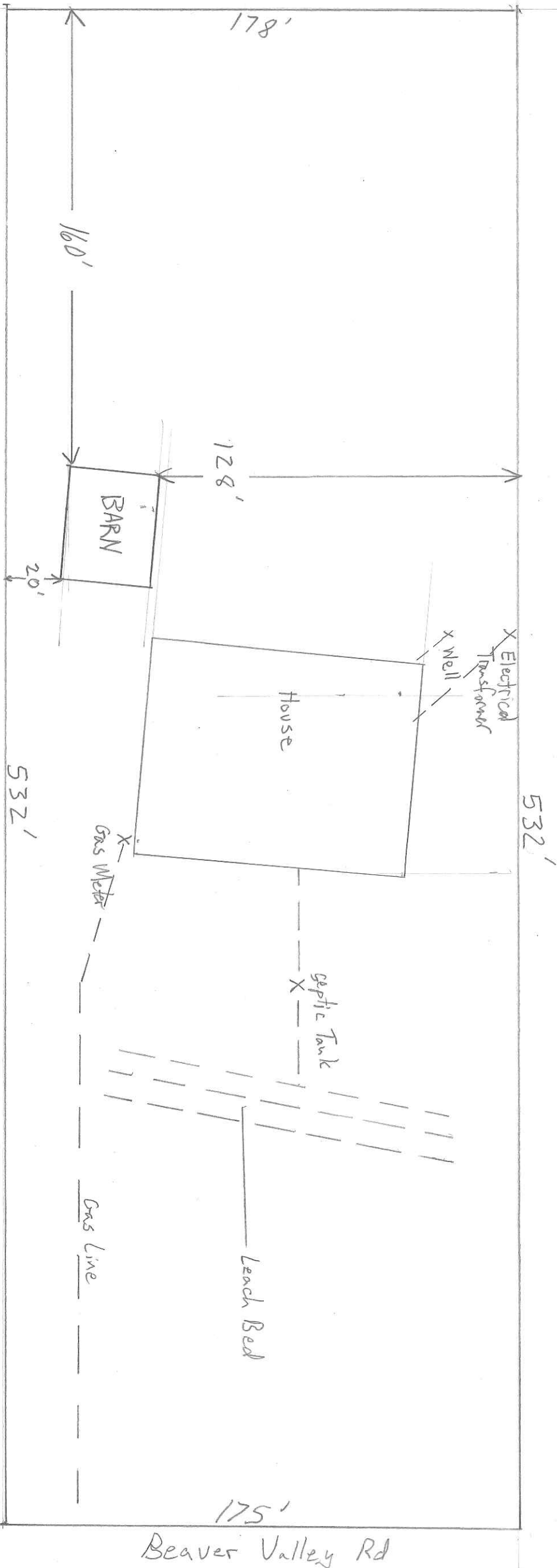


# Site Plan

REC'D  
SEP 11 2018  
CITY OF BEAVERCREEK  
PLANNING DEPARTMENT

Scale 40'-1"

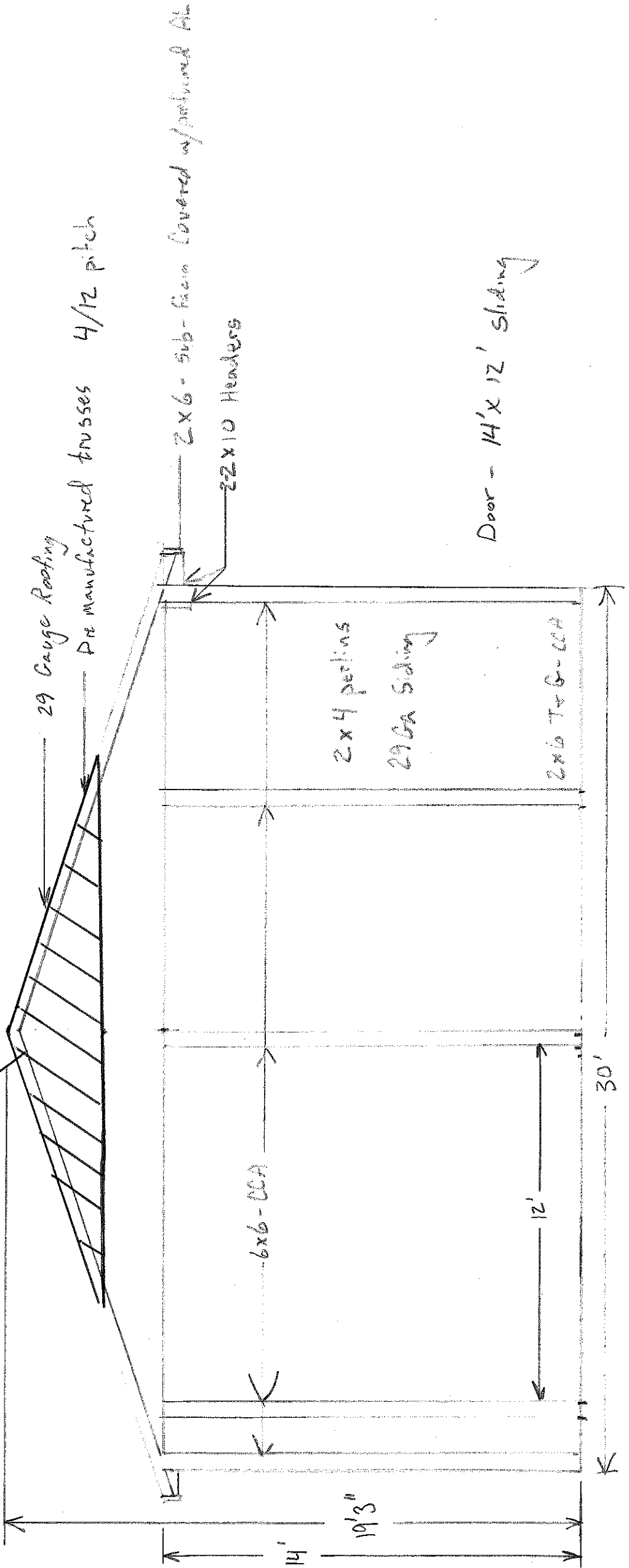
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Beaver Valley Rd

Area of Variance

Scale 1/4" = 1'



Door - 14' x 12' Sliding